



1450 Halyard Drive, Suite 6  
West Sacramento, CA 95691  
<http://www.deltaconservancy.ca.gov>

## **Subcommittee Report Regarding Changes to the Subcommittee Charter and BDCP Comment Letter Revisions**

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### **Recommendations**

The Subcommittee recommends that the Board adopt the changes to the Subcommittee structure and the revised Program and Policy Subcommittee Charter, as indicated below.

The Subcommittee recommends that the Board consider the revised changes to the BDCP letter, indicated below, based upon the Board's comments from the March 2014 meeting.

### **Attendance**

Subcommittee members attending the April 16, 2014, meeting: Jim Provenza, chair; Steve Chappell; Mike Eaton; Ken Vogel; and Mark Wilson. A quorum was established. Darla Guenzler was unable to attend; Robin Kulakow has resigned from the Subcommittee due to her limited availability to participate.

### **Changes to the Subcommittee Charter**

The Subcommittee reviewed and discussed three options—to keep the subcommittee intact, to make it a 2-member ad hoc advisory committee, or to disband the subcommittee—and determined that the Subcommittee served a viable and necessary function for the Conservancy and its board; however, the Subcommittee agreed that it needed to be restructured.

The Subcommittee determined that setting the formal membership of the Subcommittee at five, with two designated alternates, would be a better structure than its current configuration. The membership would continue to be voluntary and at least two of the five Subcommittee members must be voting members of the Board. The alternates would be designated as first and second alternate, and could substitute for any of the Subcommittee members unable to attend a specific meeting. The Board would ratify the membership of the Subcommittee.

The Subcommittee will continue to meet on months alternating with the full Board meeting, as long as substantive issues need to be discussed. This meeting schedule allows for continuity of Board advice to Conservancy staff as issues arise.

The Subcommittee directed staff to revise the Subcommittee's charter to reflect these changes in anticipation of adoption by the Board at its May 2014 meeting. The Subcommittee also directed staff to establish a phone-in line as a regular option for the Subcommittee meetings. Under Bagley-Keene, those Subcommittee members using the phone-in option are required to make publicly available the location from which they are calling.

Meeting Date: May 28, 2014  
Page 2

**Background.** In March 2013, the Board asked Subcommittee members to meet and discuss the continued need for the Subcommittee given the difficulty in securing a quorum.

#### **BDCP Comment Letter Revisions**

The Subcommittee reviewed the Board direction and draft BDCP and discussed revisions to the letter, and other considerations such as if the letter needed to be sent.

**Board Direction.** At its March 12 meeting, the Board made four specific comments regarding the draft letter regarding the Bay-Delta Conservation Plan Public Review Draft EIR/EIS. These comments were:

1. Clearly state in the cover letter that the representatives of the California Natural Resources Agency and the Department of Finance have no comment and abstain from this action.
2. On page 1 of the attached table, revise the second paragraph under the Effects of the BDCP column to reflect concern about how BDCP might impact natural communities.
3. On page 2 of the attached table, revise the fourth paragraph to address what seems to be an internal inconsistency regarding loss of agricultural land and the Conservancy's ability to meet its mandate to preserve, protect, and restore agricultural and working landscapes.
4. On page 5 of the attached table, fix the line break so it no longer appears to be an incomplete sentence.

**Draft Language to Address Board Comments.** The Subcommittee developed draft language to address the relevant Board comments. The suggested changes are in track changes mode (underline and strikeout font):

1. Add this sentence at the end of the second paragraph of the cover letter:

The Board of the Conservancy, listed in the left margin, was specifically designed to allow for local input in the governance of the organization and in project development., evaluation and funding decisions. This local input is invaluable in gaining local support and fostering a trusted and transparent long-term restoration effort. We hope the BDCP will work closely with the Conservancy to develop projects in a manner that incorporate the local perspective. Further, it is vital that the BDCP proposed conservation measures be compatible with Delta communities and agriculture. This will be critical for maintaining the viability of the region. Gubernatorial appointments~~Representatives to the Board from, the Secretary of the~~ Natural Resources Agency and the ~~Director~~ Department of Finance, abstain from this action, and this letter in no way implies a recommendation or position from the Governor.

Also, the Subcommittee recommends the Board consider deleting the last paragraph of the letter; if not the entire last paragraph, at least the whole last sentence.

2. Soften language regarding short-term and long-term effects:

~~There are concerns about how the BDCP Public Review Draft EIR/EIS identifies short-term impacts to natural communities and why they expect beneficial long-term effects to natural communities.~~

The Conservancy notes that the Independent Science Board indicated that the expected long-term benefits were overstated; therefore, the Conservancy questions the expected level of benefit and requests BDCP provide additional support for the expected long-term benefits.

3. Replace existing paragraph with a new paragraph:

*Existing paragraph:* The impact of BDCP will not preclude the Conservancy from preserving and protecting agricultural land, it will however reduce the amount of agricultural land available for protection and preservation.

*New paragraph:* Under the Sacramento-San Joaquin Delta Conservancy Act of 2009, the Conservancy is charged with protecting and preserving Delta agriculture and working landscapes (Public Resources Code, Section 32322(b)(2)). The Conservancy asks that BDCP be implemented and function in a way that minimizes the loss of agricultural land and working landscapes. In conjunction with the Conservancy, the BDCP should establish as a priority that its restoration efforts will use publicly-owned land before private lands. There is concern about the potential loss of Delta agricultural land as a result of BDCP efforts that would reduce the amount of land available for protection and preservation. The Conservancy Board recommends the BDCP, in collaboration with the Conservancy, recognize the value of agricultural land and working landscapes by prioritizing the use of agricultural conservation easements and focusing on publicly-owned land first in meeting its restoration goals.

**Other Considerations.** The Subcommittee also questioned the intended purpose of the comment letter, discussing whether the letter was too much of a summary and the analysis too cursory as to be meaningful.

One suggestion the Subcommittee had for staff to improve the letter included annotating the comments in the "Effects" column and to flesh out the comments a bit more; the concern is that the comments are too much of a distillation and may be seen as adverse by both sides and the comments could be used against funding the Conservancy, as happened at a recent water bond hearing.

A second suggestion to the staff was to rewrite the letter to indicate that the table illustrates the concerns of the Conservancy and indicates how the Conservancy needs to be involved in BDCP implementation.

**Meeting Date: May 28, 2014**  
**Page 4**

**Background.** At its January 2014 meeting, the Board directed staff to draft a BDCP comment letter for consideration at its March 2014 meeting. The comment period has since been extended to June 13, 2014.

**Contact**

Nancy Ullrey, Program Lead  
Sacramento-San Joaquin Delta Conservancy  
(916) 375-2087

Attachments:  
Program and Policy Subcommittee Charter  
Original draft letter and table

## **Charter for the Conservancy Program and Policy Subcommittee**

### **1. Official Designation**

The Conservancy Program and Policy Subcommittee is a subcommittee of the Sacramento-San Joaquin Delta Conservancy, a California state agency chartered through the Sacramento-San Joaquin Delta Reform Act (Chapter 5, Statutes of 2009).

### **2. Purpose and Responsibilities**

The Program and Policy Subcommittee provides oversight and recommendations for implementation of the Conservancy's Strategic Plan. The subcommittee will serve as a forum for the public and staff to contribute ideas regarding implementation of the Strategic Plan.

#### ***Review of Strategic Plan***

The Program and Policy Subcommittee will provide guidance and advice concerning the purpose and direction of the Strategic Plan and its implementation. Review of the Strategic Plan should occur at least once a year at the subcommittee level to ensure the Strategic Plan's goals are being met by the Conservancy and presented to the full Conservancy Board. This should take place in conjunction with the annual update of the multi-year Implementation Plan.

#### ***Conservancy Policy***

The subcommittee may convene to discuss positions for the Conservancy to take on programs and policy, including legislation. The subcommittee will assist in developing the Conservancy's strategies for effective engagement with the Legislature. For issues the subcommittee deems appropriate for consideration by the full board, the subcommittee may forward a recommended position for the full board to consider at the following board meeting.

The subcommittee's preference is to bring items before the full board, as time and issues permit, to promote good governance practices and to bring as many viewpoints into consideration as possible.

Based upon existing board policy, the subcommittee may recommend positions or direct staff in the interim between board meetings before going to the board with its recommendations. Considerations for such actions will be based upon time and special circumstances and will ensure that actions are consistent with enabling legislation, existing board policy as stated in the Conservancy's Strategic Plan, previous actions, letters, etc. For decisions that the subcommittee deems do not require board approval, the responsibilities of program and policy decision-making will be delegated, with advice from the subcommittee, to the Conservancy staff.

Recommended positions offered by the subcommittee need a majority of the subcommittee to be forwarded to the full Conservancy Board, using a collaborative approach to the subject. In some unusual circumstances, when distinct differences cannot be resolved yet the subcommittee believes an

**Meeting Date: May 28, 2014**  
**Page 6**

item needs to be brought to the board, the subcommittee will produce a majority and minority report to present to the board.

### ***Expectations and Possible Outcomes***

- Ongoing assistance with the Conservancy's legislative engagement program.
- Oversight of the Conservancy Strategic Plan to ensure the Conservancy is meeting its performance goals and objectives;
- Respond to changing environmental, local, and budgetary needs in implementation of the Strategic Plan; and
- Provide insights and recommendations to the Conservancy Board and staff regarding on local, state, and national environmental and political issues affecting the Conservancy's mission.

### **3. Decision Making**

The Program and Policy Subcommittee will attempt to use a collaborative approach during its decision making process. The subcommittee will review, along with any other information the subcommittee deems useful, information from prior subcommittee meetings, Conservancy board members, Conservancy staff, and the public at large.

At the discretion of the chair, formal positions of the subcommittee will be taken by a vote of the subcommittee members. Dissenting views will be recorded and presented to the board as well.

### **4. Membership & Meetings**

The Program and Policy Subcommittee will consist of five members from the Conservancy Board, two of whom must be voting members. A first and second alternate also will come from the board.

Membership to the Subcommittee is voluntary, for both voting members and alternates. The board will ratify the members and the alternates to the Subcommittee on an annual basis, to be determined by the board.

Subcommittee meetings will be held on alternating months with Conservancy Board meetings. A phone-in option will be available for Subcommittee meetings.

### **5. Changes**

The Subcommittee may recommend and the Conservancy board may make changes to this charter, as appropriate. The Program and Policy Subcommittee will remain in existence until the Conservancy charter expires or until terminated by the Conservancy Board.

*Revised April 16, 2014*